



REGULATION OF CRYPTO-ASSET SERVICE PROVIDERS: CAPITAL MARKETS BOARD OF TURKIYE (CMB TURKIYE) EXPERIENCE

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Overview

- Law No.7518 Amending the Capital Markets Law
- Perspective of the Legislation
- Definitions
- Crypto Assets and CASPs
- Transfer and Custody
- Transition Process
- Establishment of Platforms
- Overview of Türkiye's Regulation on Crypto Asset Service Providers (CASPs)
- Sanctions and Measures on CASPs
- Conclusion



Amendments

Law No.7518 Amending the Capital Markets Law:

- Definitions (wallet, crypto assets, crypto asset service provider, crypto asset custody service, platform)
- Issuance of capital market instruments as crypto assets
- General principles regarding crypto assets and crypto asset service providers (CASPs)
- Principles regarding activities of CASPs and transfer and custody of crypto assets
- Preventing Access
- Measures and sanctions regarding activities of CASPs
- Measures to be applied in the investigations of market abuse actions
- Unauthorised CASP activities
- Embezzlement
- Personal liability
- Specific legal proceedings
- Transitional provisions



Perspective

- The promise of the asset matters rather than the asset.
- The classification of crypto asset depends on the rights and opportunities that promised by the asset to its buyer/holder.



Definitions

**Crypto
assets**

Wallet

Platform

**Crypto asset
custody
service**

**Crypto asset
service
provider**



Crypto Assets

«Not all included»

- Native coins
- Crypto assets that offer rights similar to capital market instruments
- Crypto assets that are listed on platforms



CASPs

- Obligation to obtain permission of CMB to be established and commence activities
- Exclusivity of activities (Banks for custody - excepted)
- CMB has the authority to determine the principles and procedures regarding establishment and commencing activities of CASPs.
- Qualifications that must meet by shareholders and managers



CASPs

1. Authority to regulate crypto assets that offer rights similar to capital market instruments
 - Taking regulatory actions
 - Imposing measures and sanctions
2. Authority to regulate selling or distribution of crypto assets that are created by distributed ledger or similar technology (on platforms)
 - Not subject to provisions related with capital market instruments
 - Technical report from TÜBİTAK*
3. Authority to regulate principles of listing procedure.
 - Each platform
 - Technical assent from TÜBİTAK or other related jurisdictions

**TÜBİTAK: The Scientific and Technological Research Council of Türkiye*



CASPs

- Contractual relationship
 - Between CASPs and customers
 - KYC
 - Mechanisms to solve customer disputes
- Platform – customer relations
 - Disputes subject to general provisions
 - Not subject to compensation



Transfer and Custody

- Custody: Banks and other authorised companies
 - Personal wallets – not included
 - Apart from platforms' assets
- Cash: Banks
 - Apart from platforms' assets
 - Separated account/s for customers



Transition Process

- Declaration – to continue to operate or liquidation (in a month)
 - Can operate until the secondary legislations being published
- Secondary legislations in 6 months
- After secondary legislations
 - All parties must obtain permission of CMB to be established and commence activities



Establishment of Platforms

- CMB Decision dated 08.08.2024
 - Conditions of establishment
 - Conditions Relating to Founders, Shareholders and Managers
 - Transition and adaptation process



Measures and Sactions on CASPs

- Overview of Turkiye's Regulation on CASPs
- Measures and Sanctions on CASPs
- Conclusion

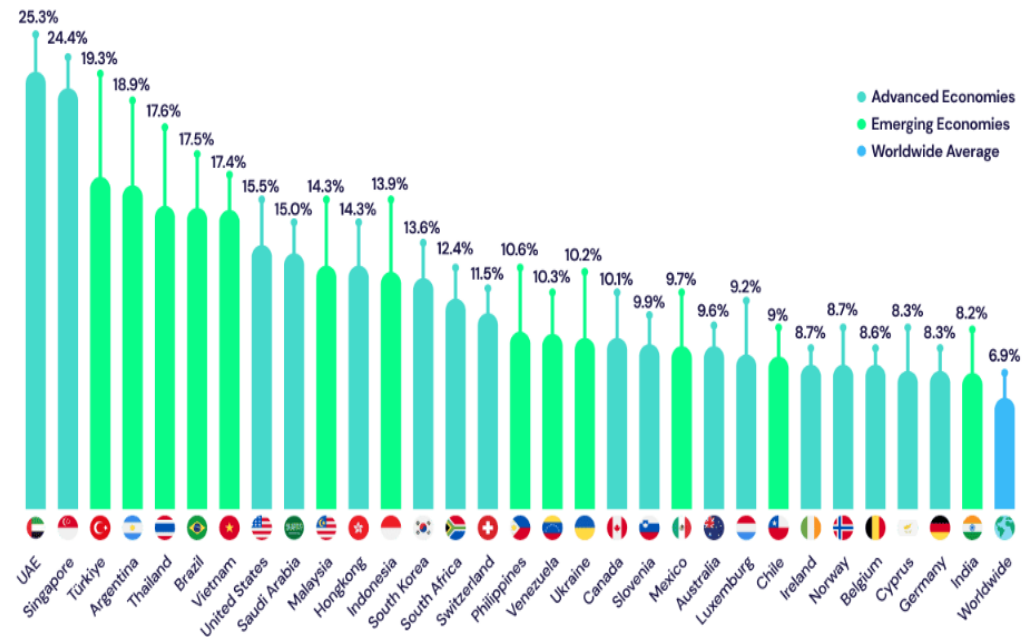


Türkiye's Perspective: Why Sanctions and Measures?

Türkiye's Growing Crypto Ecosystem

- 2023: 5 million crypto users (5% of population)
- 2024: Expected to reach 19.3% of population
- Ranked 3rd globally for user growth

Over 560+ Million Cryptocurrency owners worldwide



Source: <https://www.triple-a.io/cryptocurrency-ownership-data>



Why is Türkiye Attractive to Crypto Investors?

- **Economic and Political Stability:**
Relative stability reassuring investors
- **Government Support:**
Investments in digital infrastructure
- **Transparent Regulatory Framework:**
Clear regulations attracting global interest





Challenges in the Market

- **Market Volatility**

Price fluctuations can lead to significant losses for investors

- **Regulatory Risk**

Closely monitor regulatory changes to avoid unpleasant surprises

- **Asset Security**

Using secure wallets and trusted trading platforms is essential to protect investments from hacking and fraud.



Measures and Sanctions On CASPs

Unlawful Activities and Transactions

- Temporarily or permanently revoking the licences
- Limiting or removing the signature powers
- Dismissing the members of the executives

Unauthorized Service Providing Activities

- File lawsuit against CASPS which do not have licence
- Limiting or removing the signature powers
- Removing the content and/or blocking access to the publications made through internet

Enforcement Measures for Illegal Advertisements

- Suspending the publications, announcements and advertisements made by the CASPs
- Confiscating illegal documents announcements and advertisements
- Removing the content and/or blocking access to the publications made through internet



Criteria for Foreign-Based Platforms in Terms of Engaging Activities Targeting Turkish Citizens

Opening a place of business in Türkiye

Creating a website available in Turkish language

Engaging in promotional and marketing activities directly and/or through persons or institutions resident in Türkiye in relation to the crypto-asset services offered by platforms located abroad.



Liability of CASPs

- **Legal Responsibility**

CAPs liable for illegal activities.

- **Refund and Delivery Issues**

Cannot refund customers or deliver crypto assets = liability for damages.

- **Cybersecurity Incidents**

Responsible for losses due to internal system cyberattacks.

- **Personal Liability**

If damages are not compensated, CASPs managers may face personal liability based on fault.

- **Importance of Accountability**

Ensures protection for investors against misconduct and negligence.



Sanctions

Administrative Sanctions

Violation of Rules Administrative monetary penalty for violating principles set by the CMB regarding activities

Market Abuse: Administrative monetary penalties for individuals disrupting the market (except foreign traded cryptoassets)

Criminal Sanctions

Unauthorized Activities: Imprisonment for 3 to 5 years and judicial fines for offenders

Embezzlement: Imprisonment from 8 to 14 years and a judicial fine for offenders

Irregularities in legal books, accounting record and financial statements and reports: Imprisonment from 1 to 3 years

Withholding information/documents, preventing inspection: Imprisonment from 1 to 3 years



Embezzlement

Perpatrators

- Chairman and members of the board
- The person who commit the crime by fraudulent behaviour

Key Legal Value

- Trust Protection
- CASPs are trust institution

Crime

- Using entrusted funds or crypto assets for personal benefits

Penalties

- 8 to 14 years of imprisonment
- Up to 5000 days of fine
- Obligation to compensate for damages to the CASPs
- Aggravated circumstances



Disputes Between Crypto-asset Service Providers and Customers

- **Subject to General Law:**
 - Legal relationships in ICOs or crypto-asset distribution follow general legal provisions.
 - Disputes between platforms and customers are also governed by general law.
- **Liability Limitations:**
 - Any contractual clauses limiting or eliminating the liability of service providers are **void**.
- **No State Guarantee:**
 - Approval by TUBITAK or authorisation by CMB does **not** imply state guarantee.
 - Customers cannot sue TUBITAK, CMB, or any governmental entity for platform failures.



Conclusion

Türkiye's Perspective on Crypto Legislation

- **Key Focus Area**
Investor Protection: Strong Regulatory Framework for CASPs
Market Integrity: Clear standards to ensure compliance
- **Investor Confidence:** Enhances trust in crypto ecosystem
- **Challenges Addressed:** Market volatility and security risks managed through strict sanctions.
- **Accountability:** Personal liability for CASPs' executives; penalties for non-compliance.
- **Conclusion:** Türkiye aims to lead in crypto regulation while fostering innovation.



THANK YOU/TEŞEKKÜRLER

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